

REMARKS

Reconsideration is respectfully requested.

As amended, claims 1-13 and 19-25 are pending and at issue. New claims 20-25 have been added reciting compositions and methods of treatment using compounds according to claims 2-4. No new matter has been added.

Double Patenting Rejections

Claims 1-13 and 19 have been provisionally rejected for obviousness-type double patenting over claims of application Serial No. 10/590,786 and U.S. Patent No. 7,687,510.

Applicants again respectfully request that the rejections be held in abeyance until claims of the present application are deemed to be allowable.

Claim Rejections under 35 U.S.C. § 103

Claims 1-13 and 19 have been rejected under 35 U.S.C. § 103 as being obvious over Gielen et al., WO 2004/024700 ("Gielen").

Gielen is only available as prior art under 35 U.S.C. § 102(e). The present application (Serial No. 10/590,770) and Gielen (WO 2004/024700) were, at the time the invention of the present application was made, both owned by Bayer Schering Pharma Aktiengesellschaft. Accordingly, Gielen is disqualified as prior art under 35 U.S.C. § 103(c). Withdrawal of the rejection is respectfully requested.

CONCLUSION

If a telephone conference with Applicant's representative would be helpful in expediting prosecution of the application, Applicant invites the Examiner to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

Electronic signature:

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